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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOVELTY TEXTILES, INC., a
California corporation,

Plaintiff,

v.

REBDOLLS, INC., a New Jersey
Corporation; and DOES 1 through 10,

Defendants.

Case No.:

PLAINTIFF'S COMPLAINT FOR:

1. COPYRIGHT INFRINGEMENT;
2. VICARIOUS AND/OR
CONTRIBUTORY COPYRIGHT
INFRINGEMENT

Jury Trial Demanded

Plaintiff NOVELTY TEXTILE, INC. (hereinafter "NOVELTY") by and
through its undersigned attorneys, hereby prays to this honorable Court for relief
based on the following:

JURISDICTION AND VENUE

1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101
et seq.
2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and
1338 (a) and (b).

1 and every violation of Plaintiff's rights and the damages to Plaintiff proximately
2 caused thereby.

3 **CLAIM RELATED TO DESIGN 2771**

4 8. Prior to the conduct complained of herein, Plaintiff composed an original
5 two-dimensional artwork for purposes of textile printing, which is set forth herein
6 below. It allocated this artwork Plaintiff's internal design number "2771"
7 (hereinafter "Subject Design A"). This artwork was a creation of Plaintiff and/or
8 Plaintiff's design team, and is, and at all relevant times was, owned exclusively by
9 Plaintiff.

10 9. Plaintiff applied for and received a United States Copyright Registration
11 for Subject Design A, the registration was granted Registration No. VA 1-795-886,
12 with an effective date of April 8, 2011.

13 10. Prior to the acts complained of herein, Plaintiff sampled and sold fabric
14 bearing Subject Design A to numerous parties in the fashion and apparel industries.

15 11. Plaintiff is informed and believes and thereon alleges that, following this
16 distribution of fabric bearing Subject Design A, REBDOLLS, and certain DOE
17 Defendants created, sold, manufactured, caused to be manufactured, imported and/or
18 distributed fabric and/or garments comprised of fabric bearing an unauthorized
19 reproduction of Subject Design A ("Infringing Product A"). Such Infringing Product
20 A includes but is not limited to garments sold to the public by REBDOLLS under
21 Item No. FJI-0013-L and bearing the label "REBDOLLS," indicating it was
22 manufactured by or for REBDOLLS.

23 12. Plaintiff is informed and believes and thereon alleges that Defendants, and
24 each of them, have committed copyright infringement with actual or constructive
25 knowledge of Plaintiff's rights and/or in blatant disregard for Plaintiff's rights, such
26 that said acts of copyright infringement were, and continue to be, willful, intentional
27 and malicious, subjecting Defendants, and each of them, to liability for statutory
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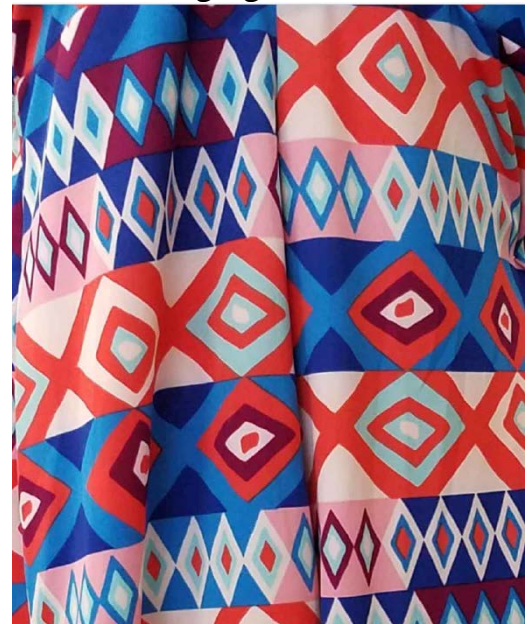
damages under Section 504(c)(2) of the Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per infringement.

13. A comparison of Subject Design A (left) and a non-exclusive exemplar of Infringing Product A (right) is set forth below; it is apparent that the elements, composition, colors, arrangement, layout, and appearance of the designs are substantially similar:

Subject Design A



Infringing Product A



CLAIM RELATED TO DESIGN 1717

14. Prior to the conduct complained of herein, Plaintiff composed an original two-dimensional artwork for purposes of textile printing, which is set forth herein below. It allocated this artwork Plaintiff's internal design number "1717" (hereinafter "Subject Design B"). This artwork was a creation of Plaintiff and/or Plaintiff's design team, and is, and at all relevant times was, owned exclusively by Plaintiff.

15. Plaintiff applied for and received a United States Copyright Registration for Subject Design B, the registration was granted Registration No. VA 1-795-028, with an effective date of March 8, 2011.

1 16. Prior to the acts complained of herein, Plaintiff sampled and sold fabric
2 bearing Subject Design B to numerous parties in the fashion and apparel industries.

3 17. Plaintiff is informed and believes and thereon alleges that, following this
4 distribution of fabric bearing Subject Design B, REBDOLLS, and certain DOE
5 Defendants created, sold, manufactured, caused to be manufactured, imported and/or
6 distributed fabric and/or garments comprised of fabric bearing an unauthorized
7 reproduction of Subject Design B (“Infringing Product B”). Such Infringing Product
8 B includes but is not limited to garments sold to the public by REBDOLLS under
9 Item No. RDI-0322-3X and bearing the label “REBDOLLS,” indicating it was
10 manufactured by or for REBDOLLS.

11 18. Plaintiff is informed and believes and thereon alleges that Defendants, and
12 each of them, have committed copyright infringement with actual or constructive
13 knowledge of Plaintiff’s rights and/or in blatant disregard for Plaintiff’s rights, such
14 that said acts of copyright infringement were, and continue to be, willful, intentional
15 and malicious, subjecting Defendants, and each of them, to liability for statutory
16 damages under Section 504(c)(2) of the Copyright Act in the sum of up to one
17 hundred fifty thousand dollars (\$150,000) per infringement.

18 19. A comparison of Subject Design (left) and a non-exclusive exemplar of
19 Infringing Product (right) is set forth below; it is apparent that the elements,
20 composition, colors, arrangement, layout, and appearance of the designs are
21 substantially similar:
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Subject Design B



Infringing Product B



FIRST CLAIM FOR RELIEF

(For Copyright Infringement – Against All Defendants, and Each)

20. Plaintiff repeats, realleges, and incorporates herein by reference as though fully set forth, the allegations contained in the preceding paragraphs of this Complaint.

21. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to Subject Design A and Subject Design B (hereinafter “Subject Designs”), including, without limitation, through (a) access to Plaintiff’s showroom and/or design library; (b) access to illegally distributed copies of the Subject Designs by third-party vendors and/or DOE Defendants, including without limitation international and/or overseas converters and printing mills; (c) access to Plaintiff’s strike-offs and samples, and (d) garments manufactured and sold to the public bearing fabric lawfully printed with the Subject Designs by Plaintiff for its customers.

1 22. Plaintiff is informed and believes and thereon alleges that one or more of
2 the Defendants manufactures garments and/or is a garment vendor. Plaintiff is
3 further informed and believes and thereon alleges that said Defendant(s) has an
4 ongoing business relationship with Defendant retailers, and each of them, and
5 supplied garments to said retailer, which garments infringed the Subject Designs in
6 that said garments were composed of fabric which featured unauthorized print
7 design(s) that were identical or substantially similar to the Subject Designs, or were
8 an illegal derivation or modification thereof.

9 23. Plaintiff is informed and believes and thereon alleges that Defendants, and
10 each of them, infringed Plaintiff's copyright by creating, making, and/or developing
11 directly infringing and/or derivative works from the Subject Designs and by
12 producing, distributing and/or selling garments which infringe the Subject Designs
13 through a nationwide network of retail stores, catalogues, and through on-line
14 websites.

15 24. Due to Defendants' acts of infringement, Plaintiff has suffered substantial
16 damages to its business in an amount to be established at trial.

17 25. Due to Defendants' acts of infringement, Plaintiff has suffered general and
18 special damages in an amount to be established at trial.

19 26. Due to Defendants' acts of copyright infringement as alleged herein,
20 Defendants, and each of them, have obtained direct and indirect profits they would
21 not otherwise have realized but for their infringement of the Subject Designs. As
22 such, Plaintiff is entitled to disgorgement of Defendants' profits directly and
23 indirectly attributable to Defendants' infringement of the Subject Designs in an
24 amount to be established at trial.

25 27. Plaintiff is informed and believes and thereon alleges that Defendants, and
26 each of them, have committed acts of copyright infringement, as alleged above,
27 which were willful, intentional and malicious, which further subjects Defendants,
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1 and each of them, to liability for statutory damages under Section 504(c)(2) of the
2 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per
3 infringement. Within the time permitted by law, Plaintiff will make its election
4 between actual damages and statutory damages.

5 **SECOND CLAIM FOR RELIEF**

6 (For Vicarious and/or Contributory Copyright Infringement - Against All
7 Defendants)

8 28. Plaintiff repeats, realleges, and incorporates herein by reference as though
9 fully set forth, the allegations contained in the preceding paragraphs of this
10 Complaint.

11 29. Plaintiff is informed and believes and thereon alleges that Defendants
12 knowingly induced, participated in, aided and abetted in and profited from the illegal
13 reproduction and/or subsequent sales of garments featuring the Subject Designs as
14 alleged herein.

15 30. Plaintiff is informed and believes and thereon alleges that Defendants, and
16 each of them, are vicariously liable for the infringement alleged herein because they
17 had the right and ability to supervise the infringing conduct and because they had a
18 direct financial interest in the infringing conduct.

19 31. By reason of the Defendants', and each of their, acts of contributory and
20 vicarious infringement as alleged above, Plaintiff has suffered and will continue to
21 suffer substantial damages to its business in an amount to be established at trial, as
22 well as additional general and special damages in an amount to be established at
23 trial.

24 32. Due to Defendants', and each of their, acts of copyright infringement as
25 alleged herein, Defendants, and each of them, have obtained direct and indirect
26 profits they would not otherwise have realized but for their infringement of the
27 Subject Designs. As such, Plaintiff is entitled to disgorgement of Defendants' profits
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1 directly and indirectly attributable to Defendants' infringement of the Subject
2 Designs, in an amount to be established at trial.

3 33. Plaintiff is informed and believes and thereon alleges that Defendants, and
4 each of them, have committed acts of copyright infringement, as alleged above,
5 which were willful, intentional and malicious, which further subjects Defendants,
6 and each of them, to liability for statutory damages under Section 504(c)(2) of the
7 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per
8 infringement. Within the time permitted by law, Plaintiff will make its election
9 between actual damages and statutory damages.

10 **PRAYER FOR RELIEF**

11 Wherefore, Plaintiff prays for judgment as follows:

12 **Against All Defendants**

13 **With Respect to Each Claim for Relief**

- 14 a. That Defendants, their agents and employees be enjoined from
15 infringing Plaintiff's copyrights in any manner, specifically those for the
16 Subject Designs;
- 17 b. That Plaintiff be awarded all profits of Defendants plus all losses of
18 Plaintiff, plus any other monetary advantage gained by the Defendants
19 through their infringement, the exact sum to be proven at the time of
20 trial, or, if elected before final judgment, statutory damages as available
21 under the Copyright Act, 17 U.S.C. §§ 101, *et seq.*;
- 22 c. That Plaintiff be awarded its attorneys' fees as available under the
23 Copyright Act U.S.C. § 101 *et seq.*;
- 24 d. That Plaintiff be awarded pre-judgment interest as allowed by law;
- 25 e. That Plaintiff be awarded the costs of this action; and
- 26 f. That Plaintiff be awarded such further legal and equitable relief as the
27 Court deems proper.

1 A TRIAL BY JURY PURSUANT TO FED. R. CIV. P. 38 AND
2 CONSTITUTIONAL AMENDMENT SEVEN IS HEREBY DEMANDED.

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5 Dated: May 30, 2017

By: /s/ Scott A. Burroughs
 Scott A. Burroughs, Esq.
 Trevor W. Barrett, Esq.
 DONIGER / BURROUGHS
 Attorneys for Plaintiff
 NOVELTY TEXTILE, INC.